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DEC - 2 1991

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

VICKSBURG VIDEO, INC.,

Complainant,

v.

SOUTH CENTRAL BELL TELEPHONE COMPANY,

Respondent.

CC 95-94
File No. PA-910007

DOCKET FILE COPY ORIGINAL

To: Common Carrier Bureau

REPLY

Complainant Vicksburg Video, Inc. ("Vicksburg" or "Complainant"), submits its reply, pursuant to Section 1.1407 of the Commission's rules, to the Response of Respondent South Central Bell Telephone Company filed on November 12, 1991.

1. Respondent concedes that it seeks to charge Complainant an annual pole rental fee of \$6.55 for the period July 1, 1991, through June 30, 1992. Response ¶ 6. It generally denies that its annual pole attachment rates to Complainant have more than doubled since June 1990 (id.), but does not provide any basis for that bare assertion or any evidence that would contradict the invoice submitted by Complainant that reflects an annualized \$2.84 per pole rental fee for the first six months of 1990 (see Exhibit B of Complaint). Thus, its general denial of the magnitude of increase is totally unjustified.

2. The Response makes it clear that, absent direction from the FCC, Respondent is unwilling to modify its annual rental fee from \$6.55 to anything approaching the \$4.54 level contended by Complainant as just and reasonable. Response ¶¶ 7-8, Affidavit of William Tyler. Respondent continues to disagree with the application of the FCC's pole attachment rate formula with respect to the maintenance and administration cost components of the carrying charge as initially presented to Respondent by UACC Midwest, Inc., before filing its complaint and as repeated in the subsequent complaints of UACC Midwest and of Complainant which incorporated the same reasoning by reference. See Exhibit C of Complaint, UACC Midwest, Inc., d/b/a United Artists Cable Mississippi Gulf Coast v. South Central Bell Telephone Company, PA-91-0005.^{1/} Thus, a settlement meeting between Vicksburg and Respondent would be fruitless, just as compromise efforts proved ineffective for UACC Midwest.

3. Respondent denies that the maintenance component of the carrying charge should be 2.17%, rather than 16.85% as it has computed. Response ¶ 8. Respondent does not deny, as UACC Midwest has previously shown, that it has greatly increased the pole maintenance expense under former Part 31 accounting by including \$6,532,065 in new Part 32 account 6411 (which totals \$7,601,487) for rents paid by

^{1/} Respondent concedes that the appropriate cost of capital to be used in the FCC pole attachment formula should be 11.24%. Response ¶ 8.

Respondent to power companies for rental of their poles. As cable companies such as Complainant pay rental directly to the same power companies for rental of space on power poles, they should not be forced by the telephone company to pay twice for space on power poles. Recognizing the unfairness of the position advocated by Respondent, the FCC's Accounting and Audits Division's letters of June 22, 1990 and November 23, 1990 (see Exhibit C of Complaint), concluded, for example, that "it is our opinion that in computing the maintenance expense ratio you would not include in the numerator the amounts reported in Account 6411 columns (ad) benefits [\$67,902] and (ae) rents [\$6,532,065]." Respondent provides no new persuasive reason for the Commission to reverse its prior determination of that issue.

4. The FCC's Accounting and Audits Division's letters of June 22, 1990 and November 23, 1990, further reflect that UACC Midwest did not object to including column (ae) rental expenses (\$6,532,065) or column (ad) benefits (\$67,902) in the numerator of the administration expense ratio. This approach would appropriately allocate the expenses to total plant, as envisioned by the conversion from Part 31 to Part 32 accounting. Thus, the maintenance component of the carrying charge should be 2.17%, rather than 16.85%.^{2/}

^{2/} Adding "rentals" and "benefits" to the administration component would increase it from 5.96% to approximately 6.66%, with a corresponding increase in rental fee from \$4.54 to (continued...)

5. In defending an administration component of the carrying charges of 8.63%, Respondent does not deny, as UACC Midwest has previously shown (see Exhibit C of Complaint), that it seeks to include all of accounts 6124 and 6535 without excluding general purpose computer and engineering expenses. Respondent declines to provide any breakdown to determine the amount of charges that should be allocated, for example, to network operations or to general support expenses, contending that it is "not aware of any formulas set forth by the Federal Communications Commission to determine the derivation of a portion of any administrative account" and that allocation of costs would be more complicated than envisioned by the Commission. Response, Affidavit of William Tyler. Such general assertions, however, do not warrant a departure from the contrary position taken in the Accounting and Audits Division's letter of June 22, 1990. Moreover, Respondent does not indicate that the allocations of the type noted in that letter would be materially different or more complicated than others it makes in the ordinary course of business or, specifically, in making various conversions to Part 32 accounting. Respondent's decision to proceed before the FCC without providing breakdowns consistent with the staff's position -- information peculiarly within its knowledge --

^{2/}(...continued)

approximately \$4.63. The computation is as follows: net investment per pole of \$163.04, times carrying charges of 38.31% (maintenance 2.17%; depreciation 10.56%; administration 6.66%; taxes 7.68%; cost of capital 11.24%), times use ratio of 1/13.5.

makes it reasonable and appropriate to exclude all portions of accounts 6124 and 6535 in the administration component. See Section 1.1409(a) of the Rules.

Accordingly, the relief requested by Complainant should be granted, with a maximum rate of \$4.54 or \$4.63 established by the Commission.

Respectfully submitted,

VICKSBURG VIDEO, INC.

A handwritten signature in cursive script, appearing to read "William H. Fitz", is written over a horizontal line.

Michael S. Horne
William H. Fitz

COVINGTON & BURLING
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(202) 662-6000

Its Attorney

December 2, 1991

STATE OF ARKANSAS

COUNTY OF PULASKI


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ss:

I, Jim Wilbanks, Executive Vice President of Vicksburg Video, Inc., on oath do state that I have read the foregoing Reply, that I am familiar with the matters contained therein and know the purpose thereof; and that the facts set forth therein are true and correct to the best of my knowledge, information and belief.


Jim Wilbanks

Subscribed and sworn to before me
this 27 day of November, 1991.


Notary Public

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "Reply" were properly mailed, postage prepaid, this 2nd day of December, 1991, to the following:

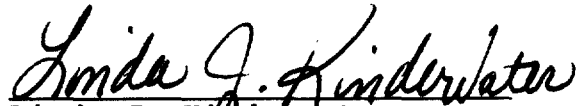
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Linda J. Kindervater

* By Hand Delivery